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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/582,492	ELIZABETH S LIGHT	142/003/PCT
INTERNATIONAL APPLICATION NO.		
PCT/US99/25109		
I.A. FILING DATE	PRIORITY DATE	
10/26/1999		

23874  
VENTANA MEDICAL SYSTEMS, INC.  
1910 INNOVATION PARK DRIVE  
TUCSON, AZ 85737

CONFIRMATION NO. 8768

371  
ABANDONMENT/TERMINATION  
LETTER

\*OC000000007970171\*

Date Mailed: 05/01/2002

## NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated Office (37 CFR 1.494), has made the following determination:

- a defective oath and declaration

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.494, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

INDIA L EVANS

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PART 3 - OFFICE COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)

**DEC 10 2001**

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3865 North Business Center Drive  
Tucson, AZ 85705

In re Application of : NOTIFICATION  
LIGHT et al. :  
Application No.: 09/582,492 :  
Attorney Docket No.: 142/003/PCT :  
For: DETECTION OF HUMAN PAPILLOMA :  
VIRUS IN PAPANICOLAOU (Pap) SMEARS :

This is a notification regarding the above-identified application.

### **BACKGROUND**

On 26 June 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, a Transmittal Letter for entry into the national stage of the United States, the U.S. Basic National Fee, a statement claiming small entity status, and a declaration of the inventors. The transmittal letter requested that the application papers be processed as the national stage application of international application PCT/US99/23815. The declaration identified the application being executed as international application number PCT/US99/25109 filed 06 October 1999. (It is noted that international application number PCT/US99/25109 has an international filing date of 26 October 1999 rather than 06 October 1999.)

On 20 April 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) as well as the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. An attached NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicated that the declaration of inventors filed 26 June 2000 did not identify the application to which it was directed and also indicated that "none of the information sent in for the above serial number match [sic] the PCT number listed on the applicant's transmittal letter". A two-month extendable period for reply was set.

On 15 August 2001, applicants submitted a facsimile transmission for the above-identified application including, *inter alia*, a copy of a NOTIFICATION from the Office of PCT Legal Administration for international application number PCT/US99/25109 mailed 26 July 2001, and a

copy of a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" purportedly filed 21 May 2001.

On 24 September 2001, applicants filed a response to the NOTIFICATION OF MISSING REQUIREMENTS mailed 20 April 2001 which was accompanied by, *inter alia*, a declaration of inventors, a petition for a three month extension of time, and an authorization to charge the fee for a three month extension of time to Deposit Account No. 50-0861.

### DISCUSSION

Regarding the submission filed via facsimile transmission on 15 August 2001, no proof that the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" purportedly filed 21 May 2001 was actually filed on that date was provided. Nor was the submission accompanied by a petition/fee for an extension of time. Thus, the submission filed via facsimile transmission on 15 August 2001 was not a proper response.

Regarding the submission filed 24 September 2001, the authorization to charge the three month extension of time was not effective as payment because Deposit Account No. 50-0861 had insufficient funds to cover this fee at the time the payment was attempted to be processed (26 September 2001). 37 CFR 1.25(a) states that an amount sufficient to cover all fees requested must always be on deposit and that charges to accounts with insufficient funds will not be accepted. Thus, the response filed 24 September 2001 is not proper.

Because neither the submission filed via facsimile transmission on 15 August 2001 nor the response filed 24 September 2001 was a proper response, the period for reply to the decision mailed 20 April 2001 continued to run from that date. That decision set a two month period for reply. The period was extendable under 37 CFR 1.136(a), which allows extensions of up to five months. Thus the period for reply was extendable to 20 November 2001. As this date has passed, the application is now ABANDONED.

It is noted that the identification of an incorrect international application number in a transmittal letter for entry into the national stage in the United States may be corrected by a petition under 37 CFR 1.182.

### CONCLUSION

For the reasons set forth above, the application is now ABANDONED.

Applicants may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application as being unintentionally abandoned. If such a petition is filed, applicants may also

wish to consider filing a petition under 37 CFR 1.182 to correct the indication in the transmittal letter regarding the proper international application number which should be processed as the national stage application.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.



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